

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH
BENEFITS FUND; PIRELLI ARMSTRONG
RETIREE MEDICAL BENEFITS TRUST;
TEAMSTERS HEALTH & WELFARE FUND
OF PHILADELPHIA AND VICINITY;
PHILADELPHIA FEDERATION OF
TEACHERS HEALTH AND WELFARE FUND;
DISTRICT COUNCIL 37, AFSCME -
HEALTH & SECURITY PLAN; JUNE SWAN;
BERNARD GORTER; SHELLY CAMPBELL
and CONSTANCE JORDAN,

Plaintiffs,

v.

FIRST DATABANK, INC., a Missouri
corporation, and McKESSON CORPORATION,
a Delaware corporation,

Defendants.

Civil Action: 1:05-CV-11148-PBS

Judge Patti B. Saris

**DEFENDANT MCKESSON CORPORATION'S
RESPONSE TO PLAINTIFFS' REQUEST FOR LEAVE TO FILE A REPLY
BRIEF ON THE U&C SCHEDULE**

Plaintiffs' Motion For Leave to File a Reply Brief In Support of Plaintiffs' Motion to Modify the U&C Scheduling Order [Docket No. 534] engages in the very "cat fight" this Court has urged the parties to avoid. McKesson sought to prevent it when, pursuant to Local Rule 7.1, it provided its position to plaintiffs' on their motion, a position which plaintiffs have failed to state accurately. (*See* Attachment 1, Email between S. Berman and L. Schechter, dated June 3, 2008.) If the Court is inclined to accept plaintiffs' reply brief, McKesson requests leave to file a surreply within two days. At that time McKesson will present the Court with the transcript excerpts of the deponent, Mr. Picard, whose testimony of today plaintiffs mischaracterize, and it will also address the other inaccuracies in plaintiffs' reply brief.

McKesson Corporation
By its attorneys:

/s/ Lori A. Schechter
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Dated: May 30, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on June 3, 2008.

/s/ Lori A. Schechter
Lori A. Schechter

Attachment 1

Nora N. Wineberg

From: Schechter, Lori A. [LSchechter@mofo.com]
Sent: Tuesday, June 03, 2008 8:00 PM
To: norawineberg@yahoo.com; Wineberg, Nora N.
Subject: FW: motion for leave to file a reply brief

From: Steve Berman [mailto:Steve@hbsslaw.com]
Sent: Tuesday, June 03, 2008 12:18 PM
To: Schechter, Lori A.; Barbara Mahoney
Subject: RE: motion for leave to file a reply brief

no we will not

Steve W. Berman
Hagens Berman Sobol Shapiro
1301 Fifth Ave, Suite 2900
Seattle WA 98101
206.224.9320
Steve@hbsslaw.com

From: Schechter, Lori A. [mailto:LSchechter@mofo.com]
Sent: Tuesday, June 03, 2008 12:12 PM
To: Barbara Mahoney
Cc: Steve Berman
Subject: RE: motion for leave to file a reply brief

Barbara,
We don't think there should be another round of briefing on a scheduling request. It would be the very cat fighting the Court has asked the parties to refrain from engaging in.

If you are going to seek leave to file a reply, we do not oppose it. But we then believe we are entitled to a surreply. Will you agree to a surreply?
Lori

From: Barbara Mahoney [mailto:barbaram@hbsslaw.com]
Sent: Tuesday, June 03, 2008 11:04 AM
To: Schechter, Lori A.
Cc: Steve Berman
Subject: motion for leave to file a reply brief

Lori,
Plaintiffs would like to file a motion for leave to file a reply brief to respond to allegations in your opposition to our motion for a modification of the scheduling order regarding the pharmacy claims data. We would appreciate it if you could tell us whether you consent to our motion by noon today.

6/3/2008

Barbara

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6/3/2008